IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1974

OCT 21 1974
MICHAEL RODAK, JR., CLERK

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NO. 74-456

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JOHN HILL, ATTORNEY GENERAL OF THE STATE OF TEXAS, MARK WHITE, SECRETARY OF STATE OF THE STATE OF TEXAS, AND CAROL VANCE, DISTRICT ATTORNEY FOR HARRIS COUNTY, TEXAS

Appellants

v.

PRINTING INDUSTRIES OF THE GULF COAST, MARION COLEMAN, GRADY E. FITCH, AND CHARLES DRAKE, INDIVIDUALLY AND ON BEHALF OF ALL PERSONS SIMILARLY SITUATED,

Appellees

* * *

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

* * *

JURISDICTIONAL STATEMENT

* * *

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October 1974

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JOHN HILL, ATTORNEY GENERAL OF THE STATE OF TEXAS, MARK WHITE, SECRETARY OF STATE OF THE STATE OF TEXAS, AND CAROL VANCE, DISTRICT ATTORNEY FOR HARRIS COUNTY, TEXAS

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Appellees

* * *

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

* * *

JURISDICTIONAL STATEMENT

* * *

This appeal is from the judgment of the United States District Court for the Southern District of Texas, entered on August 20, 1974, in an action challenging the constitutionality of a portion of Article 14.10(b) of the Texas Election Code

which provides that:

> "all printed or published political advertising shall also have printed on it the name and address of the printer or publisher and the person paying for the advertising."

The Court below held that the above quoted language was unconstitutional in that it places a substantial infringement on Appellee printers' and publishers' right to print political material anonymously in violation of the First Amendment Freedom of the Press provision. The court further held that this section violated Appellee printers' and publishers' right for associational privacy derived from the First Amendment guarantee of freedom of assembly. The court found no compelling state interest to justify the burden placed on Appellee printers' First Amendment right. Finally, the Court held that the statute was void for vagueness in that the words "person paying for the advertising" were so vague that men of common intelligence would differ as to its meaning and application.

Appellants submit this statement to show that the Supreme Court of the United States has jurisdiction of this appeal and that a substantial question is presented.

OPINION BELOW

The opinion and order of the Court below are not yet reported. They were issued on August 20, 1974. They are reproduced in the separately bound appendix. (Pages 1 to 61.)

JURISDICTION

This suit was brought under 42 USC Sec. 1983 and 28 USC Sec. 1343 to enjoin the enforcement of the State law alleged to violate the First and Fourteenth Amendments of the United States Constitution. Jurisdiction of the three judge district court was invoked under 28 USC Sec. 2281 and 2284. The judgement of the district court was entered on August 20, 1974, and notice of appeal was filed in that court on August 23, 1974.

Application for a stay pending appeal was filed in the court below on August 23, 1974 and denied by the lower court on September 23, 1974. Application for a stay pending appeal of the lower court's order was presented to Mr. Justice Powell and granted by the full court on October 11, 1974, Mr. Justice Douglas dissenting.[1]

The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by 28 USC Sec. 1253 and Sec. 2101 (b). Jurisdiction is supported by Rosario v. Rockefeller, 410 U.S. 752 (1973); American Party of Texas v. White, 39 L.Ed. 2d 744 (1974).

QUESTIONS PRESENTED

I. WHETHER OR NOT THE STATE, VESTED WITH THE RESPONSIBILITY OF REGULATING THE ELECTION PROCESS IN THE INTEREST OF THE GENERAL PUBLIC, HAD A LEGITIMATE AND SUBSTANTIAL INTEREST IN ADOPTING LEGISLATION

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[1] See Appendix, page 69

PROVIDING FOR LIMITED DISCLOSURE IN THE ELECTION PROCESS.

II. WHETHER OR NOT A TEXAS ELECTION CODE REQUIREMENT THAT IDENTIFICATION OF A COMMERCIAL PUBLISHER OR PRINTER OF POLITICAL CAMPAIGN MATERIAL BE PLACED ON SUCH MATERIAL IS A SUBSTANTIAL INFRINGEMENT OF ANY FIRST AMENDMENT RIGHT.

III. WHETHER OR NOT A PENAL STATUTE IS VOID FOR VAGUENESS IF COMPLIANCE MAY BE ACCOMPLISHED THROUGH A NUMBER OF ACCEPTABLE AND GENERALLY UNDERSTOOD METHODS.

STATUTE INVOLVED

The statute involved is a part of Subsection B of Article 14.10, Texas Election Code, as amended in 1973. Article 14.10 is printed in its entirety in the Appendix to this statement with emphasis added to the portion of the statute in question.

STATEMENT

This litigation involves an attack on the constitutionality of a portion of the Texas Election Code relating to campaign reporting and disclosure. In fulfilling the responsibility for regulation of the election process, the states have long recognized that fair and open election campaigns are an integral part of that process. The federal government and at least 33 other states (Exhibit A) have enacted legislation reaching the campaign

portion of an election and containing substantially similar disclosure requirements as that at issue in the case at bar.

From 1967 to 1973, Texas law required that campaign advertising reflect the name and address of either the person paying for the advertising or the printer or publisher of the advertising. In 1973, as a result of prior experiences by the people and officers of the State in which unethical and illegal conduct in campaigns could not be effectively traced or prosecuted due to the law in existence at the time, the Texas Legislature enacted House Bill Four. This legislation was a comprehensive revision of the Texas election laws regarding the reporting and disclosure requirements for political campaigns. One of the provisions of that bill is at issue here. The prior disclosure required on printed campaign advertising was altered to require that such advertising contain the name and address of both the person paying for the material and the printer or publisher of such material.

When identification of both sources of printed campaign material was required, Plaintiffs, a trade association consisting of persons engaged in the printing industry, and three named individual printers, instituted this suit claiming that the new requirement violated their First Amendment rights of freedom of press and speech and freedom of association. The Plaintiffs additionally complained that the phrase "person paying for the advertising" was so vague that it was unconstitutionally broad on its face.

The majority of the Court below held that the printers and publishers were entitled to assert

personal First Amendment rights of freedom of speech and press from which the right to print political material anonymously derived, and that the statute in question substantially restricted that right. Additionally the Court found that the printers and publishers as individual persons have a right to associational privacy and Article 14.10 (b) infringes on that right by requiring the public revelation that a printer has been of some assistance to a candidate or a cause, regardless of the printer's desire to have this fact known. The Court held that the State could not show a compelling interest sufficient to justify what the Court saw as substantial infringement of these First Amendment rights. Finally, the Court held that the phrase "person paying for the advertising" was subject to so many interpretations that it was unconstitutionally vague on its face. The Court enjoined the State from enforcing that part of Article 14.10 (b) which required disclosure of the printer or publisher and person paying for the advertising on printed campaign material.

THE QUESTIONS ARE SUBSTANTIAL

The significance of the questions involved in this litigation extends far beyond a statute of the State of Texas. The extent to which or method by which a governmental unit may discharge its responsibility for insuring a fair, open and orderly election process is at issue. This is a question of moment not only as an abstract legal question, but in the collective mind of the public at this time in our history when the realities of the political election process have been shown to include unfair, offensive, and illegal conduct on the part of some. The public and their elected representatives want a reaffirmation of honesty and trust in government. With such a goal the State of Texas, the federal government and some 30 more states have enacted election requirements that include the disclosure of the identity of the persons responsible for printed campaign advertising material. That requirement has come under attack, in this case by members of the printing industry, as being repugnant to the First Amendment and the line of cases relating to a right to publish anonymously (Talley v. California, 362 U.S. 60 (1960)) and the right to associational privacy (NAACP v. Alabama, 357 U.S. 449 (1958)). The United States Supreme Court has not decided these issues in the context of a state regulation of the election process either as to the actual existence or extent of the First Amendment rights of the printers and publishers or the authors of campaign material or as legitimacy of the state interest in the election process expressed in this type of disclosure requirement. The federal district courts which have considered questions substantially identical to the one at bar have in three instances rejected the constitutional attack and upheld the statute. U.S. v. Scott, 195 F. Supp. 440 (M.D. Dak. 1961); U.S. v. Insco, 365 F. Supp. 308 (M.D. Fla., 1973); U.S. v. Donald H. Segretti, _____ F. Supp. _____ (M.D. Fla., July 26, 1973.) Only in the case at bar did the federal court hold the disclosure in question to be constitutionally impermissible. It is now incumbent on the Supreme Court to give the definitive direction needed by the courts and legislative bodies, through taking jurisdiction of this cause on the basis of the following issues.

I.

WHETHER OR NOT THE STATE, VESTED, WITH THE RESPONSIBILITY OF REGULATING THE ELEC-

TION PROCESS IN THE INTEREST OF THE GENERAL PUBLIC, HAD A LEGITIMATE AND SUBSTANTIAL INTEREST IN ADOPTING LEGISLATION PROVIDING FOR LIMITED DISCLOSURE IN THE ELECTION PROCESS.

The states of this Union are vested with the primary responsibility for regulation of the election processes within their boundaries for both state and federal congressional offices. The importance of this responsibility is underlined by the specific grant of authority contained in Article I, Section 4, of the United States Constitution. That the states have compelling interests in preserving the integrity and orderliness of the election process cannot be a matter of dispute. American Party of Texas v. White, supra; Rosario v. Rockefeller, supra; Bullock v. Carter, 405 U.S. 134 (1972). And this interest has its foundation in the right of all citizens, voters and candidates, to choose their governmental representatives in an orderly, fair, and democratic manner. Regulation of elections embraces not only the time and place of voting, but also such elements as notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting votes, and canvassing returns. Roudebush v. Hartke, 405 U.S. 15 (1972). The conduct of political election campaigns is an intergral part of the election process and one without doubt encompassed by the right and responsibility of state regulation. It is during the time of the campaign that the voter actually makes his choice. The ability to make an informed choice depends both on the dissemination of information regarding a candidate or measure,

and on some assurance that the information received is not the product of the kind of activity which is now generally known as "dirty tricks". Pursuant to this end, the State of Texas, the federal government and at least 30 other states have enacted legislation imposing requirements that the political advertising material used for an election reflect its source. Specifically, Texas requires the name and address of the printer or publisher and the person paying for the advertising to be disclosed. This, however, is only a part of the campaign reporting and disclosure laws which were substantially amended by the Texas Legislature in 1973. These amendments were the result of past experiences in the campaign and election processes which unfortunately too often included unethical, chaotic, and illegal conduct which under prior law neither the state nor its citizens could effectively trace, prosecute, or regulate. The provision in question serves a number of functions. Initially it acts as a strong deterrent to those who would engage in scurrilous or falsely attributed attacks. Secondly, by requiring the identification of the person paying for the advertising, any member of the public may better evaluate the content of the material and may actually trace its source--in the event a false name was given to the printer. (See the remainder of Article 14.10 (b)). This provision also allows a method of checking the reported campaign expenditures required by another portion of the act. Clearly, to merely prohibit false or falsely attributed campaign material is insufficient. The crux of the problem is to determine when such conduct occurs. This problem is especially acute during a campaign as the time for detecting and correcting the wrong is limited. The

disclosure of only the person paying for the advertising was also found to be insufficient in the State of Texas for the same reason.

Yet, printers and publishers and the court below found little if any state interest in the disclosure requirement at issue. Such a position is in opposition to other federal courts which have upheld similar statutes, U.S. v. Scott, supra; U.S. v. Insco, supra; U.S. v. Donald H. Segretti, supra. The interest which the court and plaintiffs below have in this area also comes as a revelation to the numerous other states and the federal government that apparently felt they had an interest compelling enough to enact similar requirements regarding campaign publication of campaign material.

Appellants believe that, on review by this Court, the valid and compelling state interest in utilizing this limited disclosure requirement to preserve the integrity of the election process will be upheld and the judgment of the court below reversed.

II.

WHETHER OR NOT A TEXAS ELECTION CODE REQUIREMENT THAT IDENTIFICATION OF A COMMERCIAL PUBLISHER OR PRINTER OF POLITICAL CAMPAIGN MATERIAL BE PLACED ON SUCH MATERIAL IS A SUBSTANTIAL INFRINGEMENT OF ANY FIRST AMENDMENT RIGHT.

The interest and necessity of a state in regulating the election process as reflected in statutory controls is of course subject to constitutional limitations. The Texas provision in issue is

attacked as unconstitutionally infringing on printers and publishers First Amendment rights of freedom of the press and freedom of association. Specifically printers and publishers claim constitutional protection to print and associate anonymously.

Initially, it must be noted that neither the Constitution nor the United States Supreme Court has granted an absolute right of anonymity to the press.

Given the natural limitations upon the human capacity and opportunity to speak and publish, the founding fathers and the Supreme Court share a rightful concern about legislative restrictions imposed on the press. The protection afforded the written or spoken word is designed to preserve a marketplace for the free exchange of ideas. But the scope and definition of this freedom has evolved from a balancing of the freedom and the circumstance, interest or regulation purported to restrict such freedom. Indeed certain disclosure requirements placed on the press or on those who seek to engage in various types of expression have been upheld by the United States Supreme Court. Lewis Publishing Co. v. Morgan, 229 U.S. 288 (1913); Cox v. New Hampshire, 312 U.S. 59 (1941); Poulos v. New Hampshire, 345 U.S. 395 (1953); Viereck v. United States, 318 U.S. 236 (1943); Branzburg v. Hayes, 408 U.S. 665 (1972). Anonymity of the press cannot be the protected right; rather if the nature of the disclosure requirement is such that it is unjustifiably oppressive to the exercise of a free press or free speech, the requirement will be struck down with the result of leaving the printer or speaker anonymous. Thomas v. Collins, 323

U.S. 516 (1945); Lovell v. City of Griffin, 303 U.S. 444 (1938); Talley v. California, supra.

In the case at bar, printers and publishers attempt to establish a right to print anonymously through Talley v. California, supra. Their reliance is misplaced. In Talley the Los Angeles ordinance required identification of the author of "any handbills, in any place under any circumstances." 362 U.S. 60, at 633. The breadth of the ordinance and its lack of relation to any ongoing governmental interest or responsibility led the court to hold this particular ordinance in violation of the First Amendment. The interests of anonymity under the First Amendment protection of speech were succinctly discussed by Mr. Justice Black at page 64:

"Anonymous pamphlets, leaflets, brochures and even books have played an important role in the progress of mankind. Persecuted groups and sects from time to time throughout history have been able to criticize oppressive practices and laws either anonymously or not at all. The obnoxious press licensing law of England, which was also enforced on the Colonies was due in part to the knowledge that exposure of the names of printers, writers and distributors would lessen the circulation of literature critical of the government. The old seditious libel cases in England show the lengths to which government had to go to find out who was responsible for books that were obnoxious to the rulers. John Lilburne

was whipped, pilloried and fined for refusing to answer questions designed to get evidence to convict him or someone else for the secret distribution of books in England. Two Puritan Ministers, John Penry and John Udal, were sentenced to death on charges that they were responsible for writing, printing or publishing books. Before the Revolutionary War colonial patriots frequently had to conceal their authorship or distribution of literature that easily could have brought down on them prosecutions by English-controlled courts. Along about that time the Letters of Junius were written and the identity of their author is unknown to this day. Even the Federalist Papers, written in favor of the adoption of our Constitution, were published under fictitious names. It is plain that anonymity has sometimes been assumed for the most constructive purposes.

"We have recently had occasion to hold in two cases that there are times and circumstances when States may not compel members of groups engaged in the dissemination of ideas to be publicly identified. Bates v. Little Rock, 361 U.S. 516, 80 S.Ct. 412, 4 L.Ed.2d 480; National Assoc. for Advancement of Colored People v. Alabama, 357 U.S. 449, 462, 78 S.Ct. 1163, 2 L.Ed.2d 1488. The reason for those holdings

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> was that identification and fear of reprisal might deter perfectly peaceful discussions of public matters of importance. This broad Los Angeles ordinance is subject to the same infirmity. We hold that it, like the Griffin, Georgia, ordinance, is void on its face."

However, the judgment of the court was not based on the fact that the ordinance restricted anonymity but that its breadth would result in times and circumstances when the disclosure requirement would deter "discussions of public matters of importance."

The challenged language of 14.10(b), however, applies only during very limited times (a campaign) and only to certain groups (those printing material for such campaigns). It clearly does not eliminate anonymous "discussions of public matters of importance" at all times or even during the time of an election campaign. The propriety of a similar statute (18 USC 612) as part of an election regulatory scheme was recognized by the court, in U.S. v. Insco, supra, at page 1312:

> "That statute is therefore limited in its coverage to requiring fairness in federal elections and does not preclude anonymous criticism of oppressive practices and laws as referred to by the majority in Talley;"

The case at bar more properly fits within the reasoning of the Insco case, rather than Talley in determining the extent of First Amendment protections. If the statute in question does infringe on

First Amendment rights of the printer and publisher, which the state contends it does not, that infringement balanced against the strong state interest in insuring fair and open elections is so insignificant that any balancing of interests must fall on the side of the state.

Significantly, the purposes articulated by Mr. Justice Black for questioning an absolute ban on anonymous printing are far from applicable in the case at bar. Appellee printers and publishers have no such lofty purpose for seeking anonymity. Rather, they seek only to profit in private. The "expression" required of the printers and publishers is no more than the expression of their name. This is not the type of speech envisioned by the First Amendment which is integral to the preservation of a marketplace for the free exchange of ideas. It is truly a perversion of the intent of the First Amendment to afford its protection to expression of this nature undertaken because of a purely commercial relationship. Indeed this type of expression does not even rise to the level of commercial speech held to be beyond the protection of the First Amendment. Pittsburg Press Company v. Pittsburg Comm. of Human Relations, 413 U.S. 376 (1974).

Nor does this statute infringe on the right of a printer or publisher by requiring him to print "that which reason tells him should not be published" as so recently discussed in Miami Herald Publishing Company v. Tornillo, 94 S.Ct. 2831 (1974). In that case the paper was required by Florida statute to print replies by candidates to editorials if such editorials were critical of the candidates. If the case stands for the proposition

that members of the press cannot be required by the state to print anything, regardless of the nature of the material printed, the court would have discussed or at least noted the long-standing case of Lewis Publishing Co. v. Morgan, supra, upholding the registration and publication provisions of the Post Office Appropriation Act of 1912. The absence of such a discussion affirms the contention that a requirement to print is evaluated in terms of the nature of the material to be printed and the First Amendment, not merely the fact that a requirement exists.

The asserted right of printers and publishers to associational anonymity suffers from the same defective premise. The constitutionally protected right is to freely associate for the purpose of advancing ideas and airing grievances. NAACP v. Alabama, supra; Bates v. Little Rock, 361 U.S. 516 (1960). However, the holding in both NAACP v. Alabama, supra, and Bates v. Little Rock, supra, was that in each instance the law in question imposing some burden on a First Amendment right was not shown to have a relevant or substantial correlation to the state interest sought to be furthered. As Mr. Justice Black stated in Talley, infra, "there are times and circumstances" where such disclosure cannot be required by the states. In the case at bar, sufficient, substantial, and compelling interests are shown by the State in the limited disclosure requirement of Article 14.10(b), Texas Election Code.

Finally, printers and publishers seek the right of associational anonymity not to allow those to engage in free association for advancing ideas and airing grievances; rather they seek the protection for a purely commercial enterprise.

In summary, the printers and publishers seek to stretch the First Amendment protection, established and preserved to guarantee the free expression of ideas, to guarantee the pursuit of a commercial relationship, in utter disregard of the right and interest of the public at large to be fully informed of the candidates and issues in an election campaign.

III.

WHETHER OR NOT A PENAL STATUTE IS VOID FOR VAGUENESS IF COMPLIANCE MAY BE ACCOMPLISHED THROUGH A NUMBER OF ACCEPTABLE AND GENERALLY UNDERSTOOD METHODS.

Article 14.10(b) is also penal in nature because it provides for a fine of $100 to $5,000 and imprisonment for one to five years or both for noncompliance with its terms. The printers and publishers alleged and the court below held that the phrase "person paying for the advertising" was so vague that the printers would not know precisely whose name is to be placed on the advertisement, and therefore the phrase was unconstitutionally void on its face.

Initially it should be pointed out that the printers and publishers apparently had no trouble determining who "the person paying for the advertising" was from 1967 to 1973, when the law required disclosure of either the printer or publisher or the person paying for the advertising. This is easily understood if one examines the remainder of that subsection. The "person paying for the ad-

vertising" must sign a copy of the matter to be published, and if an agent, indicate his principal. Obviously the printers and publishers have accepted and printed either the contractor or, if an agent, the principal without question and without suffering any penal sanctions.

Additionally, under the 1973 campaign reporting and disclosure laws, expenditure of campaign funds may be made only by the candidate, his campaign manager or assistant campaign manager, or the campaign manager of a political committee under Article 14.04 (d), Texas Election Code. (Certain exceptions are contained in paragraphs (a), (b), and (c) of Article 14.04, but are not applicable to the case at bar.)

The test for vagueness of a statute is whether a person of ordinary intelligence could determine from the statute that his conduct was prohibited; Connally v. General Construction Co., 269 U.S. 385 (1925); that a standard of guilt is contained in the statute capable of providing guidance for the courts; United States v. Cohen Grocery Co., 255 U.S. 81 (1921); and that the individual and the courts would consider the prohibited conduct in substantially the same say, Nash v. United States, 229 U.S. 373 (1913).

The past history of Article 14.10(b) enhanced by the recent amendments to the operation of Texas election laws, clearly show that the phrase in question is not and never has been void for vagueness.

Finally, the statute is not deficient because more than one individual may be considered by the printer or publisher to be eligible for designation as he who pays for the advertising. Compliance

with the statute is met if the name and address of one of the individuals reasonably related to the purchase of the advertising is printed. Under Article 14.10(b) this would be the person contracting for the advertising or his principal if he is an agent. Any claim that the phrase in question is unconstitutionally vague because compliance may be met through more than one means has been properly disposed of by this Court. U.S. v. Vuitch, 402 U.S. 62 (1971) held that where there are several ways of complying with a statute, compliance if any of the reasonable ways is sufficient and the statute is not unconstitutionally vague. The burden is on the state to prove that the name appearing in the printed advertising was in no reasonable or logical way the person paying for the advertising. Finally, under the Texas Penal Code Articles 8.02 and 8.03[2] provide a defense to prosecution for a

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[2]Sec. 8.02. PENAL CODE. Mistake of Fact.

(a) It is a defense to prosecution that the actor through mistake formed a reasonable belief about a matter of fact if his mistaken belief negated the kind of culpability required for commission of the offense.

(b) Although an actor's mistake of fact may constitute a defense to the offense charged, he may nevertheless be convicted of any lesser included offense of which he would be guilty if the fact were as he believed.

Sec. 8.03 Mistake of Law.

(a) It is no defense to prosecution that the actor was ignorant of the provisions of any law after the law has taken effect.

mistake of fact and a mistake of law. Therefore, if a printer mistakenly thought the person whose name he printed was the individual paying for the advertising when in fact another person was paying for it, the printer could not be prosecuted. If the printer relied on any part of the statute, the written directives of the Secretary of State, or even by this brief submitted by the Attorney General in this cause as to who was legally to be considered the person paying for the advertising when he printed the disclosure, he would be immune from prosecution.

Ftn. 2 cont.

(b) It is an affirmative defense to prosecution that the actor reasonably believed the conduct charged did not constitute a crime and that he acted in reasonable reliance upon:

(1) an official statement of the law contained in a written order or grant of permission by an administrative agency charged by law with responsibility for interpreting the law in question; or

(2) a written interpretation of the law contained in an opinion of a court of record or made by a public official charged by law with responsibility for interpreting the law in question.

(c) Although an actor's mistake of law may constitute a defense to the offense charged, he may nevertheless be convicted of a lesser included offense of which he would be guilty if the law were as he believed.

In summary, the integrated scheme of the Texas Election Code, and the full provisions of Article 14.10(b) make a claim or finding that the phrase "person paying for the advertising" is unconstitutionally void for vagueness, facetious and erroneous.

CONCLUSION

For the foregoing reasons, it is requested that the Court note probable jurisdiction of this case and set it for argument and plenary consideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Elizabeth B. Levatino, Special Assistant Attorney General of Texas, as of counsel for Appellants herein, hereby certify that true and correct copies of the above foregoing Jurisdictional Statement and separately bound Appendix have been served upon opposing counsel by placing copies in the mail, prepaid, to Mr. Gerald M. Birnberg, Attorney at Law, 2020 Southwest Freeway, Suite 302, Houston, Texas 77006, Counsel for Plaintiffs-Respondents; Mr. David Crump, Attorney at Law, 2535 Shakespeare, #4, Houston, Texas 77025, Counsel for Common Cause Amicus Curiae; Mr. Joe S. Moss, Assistant District Attorney, 301 San Jacinto, Houston, Texas 77002, counsel for Defendant-Petitioner Carol S. Vance; and Mrs. Mary Joe Carroll, Attorney at Law, P. O. Box 1148, Austin, Texas 78767, Counsel for Amicus Curiae Texas Daily Newspapers Association and Texas Press. Association.

Witness my hand this _____ day of October, 1974.

_____

ELIZABETH B. LEVATINO

E X H I B I T A

SIMILAR STATUTES FROM OTHER JURISDICTIONS

18 USC Section 612

Ala. Code Tit. 17, Section 282 (1959).

Alaska Stat. Section 15.55.030 (1971), as amended, (Supp. 1973).

Ark. Stat. Ann. Section 3-1104(i) (Supp. 1971).

Cal. Ann. Elec. Code Section 12047 (West 1961), as amended (Supp. 1973). (Relates to any material designed to defeat a candidate.)

Cal. Ann. Elec. Code Section 12049 (West 1961). (Relates to any material designed to defeat a measure on the ballot.)

Colo. Rev. Stat. Section 49-23-31 (1963).

Ga. Code Ann. Section 34-1307.1 (1970).

Ill. Ann. Stat. ch. 46 Section 29-14 (Smith-Hurd 1965), as amended (Supp. 1973).

Iowa Code Ann. Section 738.22 (1950).

Kan. Stat. Ann. Section 25-1714 (1964).

Kent. Rev. Stat. Section 123.095 (1971).

La. Rev. Stat. Ann. Section 18:1531 (West 1969).

Me. Rev. Stat. Ann. tit. 21, ch. 39, Section 1575 (1964), as amended, (Supp. 1973).

Mass. Ann. Laws ch. 56 Section 39 (1971) as amended (1973).

Md. Ann. Code art. 33, 26-16 (a) (7) (1971), as amended, (Supp. 1973)

Mich. Stat. Ann. Section 168.914a (1967).

Minn. Stat. Ann. Section 211.0[illegible] (1962), as amended, (Supp. 1973).

Miss. Code Ann. Section 23-3-37 (1972). (Candidate must approve and subscribe to all literature.)

Mo. Ann. Stat. Section 129.300 (1966).

Mont. Rev. Codes Ann. Section 94-1452 (1969). (This was one of several sections renumbered by Section 29, Ch. 513, Laws of 1973. New Section no. is section 23-4752, but latest printing of text of stat. is still Section 94-1452.)

Neb. Rev. Stat. Section 32-1153 (Supp. 1973).

N.H. Rev. Stat. Ann. Section 70:14 (1970), as amended (Supp. 1973).

N.J. Stat. Ann. Section 19:34-38.1 (1964).

N.D. Cent. Code Ann. Section 16-20-17.1 (1971), as amended, (Supp. 1973).

Ohio Rev. Code Ann. Section 3599.09 (1971).

Okla. Stat. Ann. tit. 26, Section 491 (Supp. 1973).

Ore. Rev. Stat. Section 260.360 (1969), as amended Ore. Laws 1971, ch. 749, Section 52. (Name and address of publisher, but not author, must appear on the literature.)

Penn Stat. Ann. tit. 25, Section 3546 (1963).

R.I. Gen. Laws Section 17-23-2 (1969).

Tenn. Code Ann. Section 2-1920 (Supp. 1973).

Utah Code Ann.,Section 20-14-24 (1969).

Vt. Stat. Ann. tit 17, Section 2022 (1968).

Va. Code Ann. Section 24.1 - 259 (1973).

W. Va. Code Ann. Section 3-8-12(a) (1971).

Wis. Stat. Ann. Section 12.14 (1) (West 1967).

***Washington's statute (Wash Rev. Code Ann. Section 29.85.270 (1965) was repealed in 1972 after being put to a vote of the people. Repealed by 1972 2nd Extra Session, ch.98, Section 20(2).